

TROUTMAN PEPPER LOCKE LLP

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Attorneys for Defendant Ally Bank

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KATIE DAVIS,

Plaintiff,

vs.

ALLY BANK,

Defendant.

Civil Action No. 3:25-cv-2274

ANSWER, AFFIRMATIVE
DEFENSES AND
COUNTERCLAIM

EXHIBIT 1

LAW 553-NJ-eps-14 11/19

RETAIL INSTALLMENT SALE CONTRACT
SIMPLE FINANCE CHARGEDEAL# 65303
CUST# 173135

0070214

Buyer Name and Address (Including County and Zip Code) KATIE P DAVIS 92 DAVID DR MANAHAWKIN NJ 08050	Co-Buyer Name and Address (Including County and Zip Code) N/A	Seller-Creditor (Name and Address) BARLOW BUICK GMC 445 RT 72 E MANAHAWKIN, NJ 08050
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You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements in this contract. You agree to pay the Seller - Creditor (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge in U.S. funds according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-in-Lending Disclosures below are part of this contract.

New/Used	Year	Make and Model	Vehicle Identification Number	Primary Use For Which Purchased
NEW	2022	BUICK ENCORE	KL4MMBS24NB116937	<input type="checkbox"/> Personal, family, or household unless otherwise indicated below <input type="checkbox"/> business <input type="checkbox"/> agricultural <input type="checkbox"/> N/A

FEDERAL TRUTH-IN-LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.	The total cost of your purchase on credit, including your down payment of
7.74 %	\$ 7854.76	\$ 25965.32	\$ 33820.08	\$ 2500.00 is \$ 36320.08

Your Payment Schedule Will Be:

(e) means an estimate

Number of Payments	Amount of Payments	When Payments Are Due
84	\$ 402.62	Monthly beginning 07/26/2022
N/A	\$ N/A	N/A
N/A		

Late Charge. If payment is not received in full within 10 days after it is due, you will pay a late charge of 5 % of the part of the payment that is late. If the vehicle is primarily for personal, family, or household use and the cash price is \$ 10,000 or less, the charge for each late payment will be \$ 10.

Prepayment. If you pay early, you will not have to pay a penalty.

Security Interest. You are giving a security interest in the vehicle being purchased.

Additional Information: See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date and security interest.

NO COOLING OFF PERIOD

State law does not provide for a "cooling off" or cancellation period for this sale. After you sign this contract, you may only cancel it if the seller agrees or for legal cause. You cannot cancel this contract simply because you change your mind. This notice does not apply to home solicitation sales.

☐ If this box is checked, the following late charge applies to vehicles purchased primarily for business or agricultural use.

If a payment is not received in full within N/A days after it is due, you will pay a late charge of \$ N/A or N/A % of the part of the payment that is late, whichever is less. If this box is not checked, the late charge in the "Federal Truth-in-Lending Disclosures" still applies.

Applicable Law

Federal law and the law of the state of New Jersey apply to this contract.

OPTIONAL GAP CONTRACT. A gap contract (debt cancellation contract) is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy a gap contract, the charge is shown in Item 4D of the Itemization of Amount Financed. See your gap contract for details on the terms and conditions it provides. It is a part of this contract.

Term	<u>N/A</u>	Mos.	<u>N/A</u>
I want to buy a gap contract.		Name of Gap Contract	
Buyer Signs <input checked="" type="checkbox"/>	<u>N/A</u>		

HOW THIS CONTRACT CAN BE CHANGED. This contract contains the entire agreement between you and us relating to this contract. Any change to this contract must be in writing and we must sign it. No oral changes are binding. Buyer Signs ☒ N/A Co-Buyer Signs ☒ N/A

If any part of this contract is not valid, all other parts stay valid. We may delay or refrain from enforcing any of our rights under this contract without losing them. For example, we may extend the time for making some payments without extending the time for making others.

See the rest of this contract for other important agreements.

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

The preceding NOTICE applies only to goods or services obtained primarily for personal, family, or household use. In all other cases, Buyer will not assert against any subsequent holder or assignee of this contract any claims or defenses the Buyer (debtor) may have against the Seller, or against the manufacturer of the vehicle or equipment obtained under this contract.

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06/11/2022 04:13 pm

Buyer Initials X KD Co-Buyer Initials X N/A

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OTHER IMPORTANT AGREEMENTS

1. FINANCE CHARGE AND PAYMENTS

- a. **How we will figure Finance Charge.** We will figure the Finance Charge on a daily basis at the Annual Percentage Rate on the unpaid part of the Amount Financed.
- b. **How we will apply payments.** We may apply each payment to the earned and unpaid part of the Finance Charge, to the unpaid part of the Amount Financed and to other amounts you owe under this contract in any order we choose as the law allows.
- c. **How late payments or early payments change what you must pay.** We based the Finance Charge, Total of Payments, and Total Sale Price shown on page 1 of this contract on the assumption that you will make every payment on the day it is due. Your Finance Charge, Total of Payments, and Total Sale Price will be more if you pay late and less if you pay early. Changes may take the form of a larger or smaller final payment or, at our option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these changes before the final scheduled payment is due.
- d. **You may prepay.** You may prepay all or part of the unpaid part of the Amount Financed at any time without penalty. If you do so, you must pay the earned and unpaid part of the Finance Charge and all other amounts due up to the date of your payment.

2. YOUR OTHER PROMISES TO US

- a. **If the vehicle is damaged, destroyed, or missing.** You agree to pay us all you owe under this contract even if the vehicle is damaged, destroyed, or missing.
- b. **Using the vehicle.** You agree not to remove the vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or this contract without our written permission. You agree not to expose the vehicle to misuse, seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage bills, taxes, fines, or charges on the vehicle, you agree to repay the amount when we ask for it.
- c. **Security Interest.**
You give us a security interest in:
 - The vehicle and all parts or goods put on it;
 - All money or goods received (proceeds) for the vehicle;
 - All insurance, maintenance, service, or other contracts we finance for you; and
 - All proceeds from insurance, maintenance, service, or other contracts we finance for you. This includes any refunds of premiums or charges from the contracts.

This secures payment of all you owe on this contract. It also secures your other agreements in this contract. You will make sure the title shows our security interest (lien) in the vehicle. You will not allow any other security interest to be placed on the title without our written permission.

- d. **Insurance you must have on the vehicle.**
You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of this contract. The insurance must cover our interest in the vehicle. You agree to name us on your insurance policy as an additional insured and as loss payee. If you do not have this insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we may either buy insurance that covers your interest and our interest in the vehicle, or buy insurance that covers only our interest to the extent permitted by applicable law. If we buy either type of insurance, we will tell you which type and the charge you must pay. The charge will be the premium for the insurance and a finance charge computed at the Annual Percentage Rate shown on page 1 of this contract or, at our option, the highest rate the law permits.
If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.
- e. **What happens to returned insurance, maintenance, service, or other contract charges.** If we get a refund on insurance, maintenance, service, or other contract charges, you agree that we may subtract the refund from what you owe.

3. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES

- a. **You may owe late charges.** You will pay a late charge on each late payment as shown on page 1 of this contract. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments.
If you pay late, we may also take the steps described below.
- b. **You may have to pay all you owe at once.** If you break your promises (default), we may demand that you pay all you owe on this contract at once. Default means:

- You do not pay any payment on time;
- You give false, incomplete, or misleading information during credit application;
- You start a proceeding in bankruptcy or one is started against you or your property; or
- You break any agreements in this contract.

The amount you will owe will be the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.

- c. **You may have to pay collection costs.** If we hire an attorney who is not our salaried employee to collect what you owe, you will pay the attorney's reasonable fee and court costs the law permits. If the vehicle is primarily for personal, family, or household use and the cash price is \$10,000 or less, the maximum attorney's fee you will pay will be \$100 plus 10% of the excess over \$500 of the amount due when we hire the attorney.
- d. **We may take the vehicle from you.** If you default, we may take (repossess) the vehicle from you if we do so peacefully and the law allows it. If your vehicle has an electronic tracking device (such as GPS), you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you. If you do not ask for these items back, we may dispose of them as the law allows.
- e. **How you can get the vehicle back if we take it.** If we repossess the vehicle, you may pay to get it back (redeem). We will tell you how much to pay to redeem. Your right to redeem ends when we sell the vehicle.
- f. **We will sell the vehicle if you do not get it back.** If you do not redeem, we will sell the vehicle. We will send you a written notice of sale before selling the vehicle.
We will apply the money from the sale, less allowed expenses, to the amount you owe. Allowed expenses are expenses we pay as a direct result of taking the vehicle, holding it, preparing it for sale, and selling it. Attorney fees and court costs the law permits are also allowed expenses. If any money is left (surplus), we will pay it to you unless the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you must pay the rest to us. If you do not pay this amount when we ask, we may charge you interest at a rate not exceeding the highest lawful rate until you pay.
- g. **What we may do about optional insurance, maintenance, service, or other contracts.** This contract may contain charges for optional insurance, maintenance, service, or other contracts. If we demand that you pay all you owe at once or we repossess the vehicle, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle as the law allows. If the vehicle is a total loss because it is confiscated, damaged, or stolen, we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe.

4. WARRANTIES SELLER DISCLAIMS

Unless the Seller makes a written warranty, or enters into a service contract within 90 days from the date of this contract, the Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose. This provision does not affect any warranties covering the vehicle that the vehicle manufacturer may provide.


5. **Used Car Buyers Guide.** The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.
Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.

6. Servicing and Collection Contacts

You agree that we may try to contact you in writing, by e-mail, or using prerecorded/artificial voice messages, text messages, and automatic telephone dialing systems, as the law allows. You also agree that we may try to contact you in these and other ways at any address or telephone number you provide us, even if the telephone number is a cell phone number or the contact results in a charge to you.

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Buyer Initials X  Co-Buyer Initials X NA

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ITEMIZATION OF AMOUNT FINANCED

1	Cash Price (including \$ <u>1755.77</u> sales tax)	\$ <u>27838.27</u> (1)
2	Total Downpayment =	
	Trade-In	<u>N/A</u>
	(Year) (Make) (Model)	
	Gross Trade-In Allowance	\$ <u>N/A</u>
	Less Pay Off Made By Seller to <u>N/A</u>	\$ <u>N/A</u>
	Equals Net Trade In	\$ <u>N/A</u>
	+ Cash <u>N/A</u>	\$ <u>2500.00</u>
	+ Other <u>N/A</u>	\$ <u>N/A</u>
	+ Other <u>N/A</u>	\$ <u>N/A</u>
	+ Other <u>N/A</u>	\$ <u>N/A</u>
	(If total downpayment is negative, enter "0" and see 4J below)	\$ <u>2500.00</u> (2)
3	Unpaid Balance of Cash Price (1 minus 2)	\$ <u>25338.27</u> (3)
4	Other Charges Including Amounts Paid to Others on Your Behalf	
	(Seller may keep part of these amounts):	
A	Cost of Optional Credit Insurance Paid to Insurance Company or Companies.	
	Life \$ <u>N/A</u>	
	Disability \$ <u>N/A</u>	\$ <u>N/A</u>
B	Other Optional Insurance Paid to Insurance Company or Companies	\$ <u>N/A</u>
C	Official Fees Paid to Government Agencies	
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
D	Optional Gap Contract	\$ <u>N/A</u>
E	Supplemental Title Fee	\$ <u>N/A</u>
F	Vehicle Title Fee	\$ <u>7.50</u>
G	Government Taxes Not Included in Cash Price	\$ <u>N/A</u>
H	Government License and/or Registration Fees	
	<u>N/A</u>	
	LICENSE & REG FEES	\$ <u>320.55</u>
I	Government Certificate of Title Fees	\$ <u>N/A</u>
J	Other Charges (Seller must identify who is paid and describe purpose)	
	to <u>N/A</u> for Prior Credit or Lease Balance	\$ <u>N/A</u>
	to <u>BARLOW BUICK GMC</u> for <u>DOC FEE</u>	\$ <u>299.00</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	to <u>N/A</u> for <u>N/A</u>	\$ <u>N/A</u>
	Total Other Charges and Amounts Paid to Others on Your Behalf	\$ <u>827.05</u> (4)
5	Amount Financed (3 + 4)	\$ <u>25965.32</u> (5)

OPTION: ☐ You pay no finance charge if the Amount Financed, item 5, is paid in full on or before N/A, Year N/A. SELLER'S INITIALS N/A

Returned Check Charge: You agree to pay a charge of \$ 20 if any check you give us is dishonored. If the Vehicle is primarily for personal, family, or household use and the cash price is greater than \$10,000, or the Vehicle is for business or agricultural use, you also agree to pay a charge of \$20 if any electronic payment is returned unpaid.

The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.

Insurance. You may buy the physical damage insurance, this contract requires from anyone you choose who is acceptable to us. You may also provide the physical damage insurance through an existing policy owned or controlled by you that is acceptable to us. You are not required to buy any other insurance to obtain credit.

THIS DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE. WITHOUT SUCH INSURANCE, YOU MAY NOT OPERATE THIS VEHICLE ON PUBLIC HIGHWAYS.

If any insurance is checked below, policies or certificates from the named insurance companies will describe the terms and conditions:

Check the insurance you want and sign below:
Optional Credit Insurance

☐ Credit Life: ☐ Buyer ☐ Co-Buyer ☐ Both
☐ Credit Disability: ☐ Buyer ☐ Co-Buyer ☐ Both

Premium:
Credit Life \$ N/A
Credit Disability \$ N/A

Insurance Company Name N/A
N/A

Home Office Address N/A
N/A

Credit life insurance and credit disability insurance are not required to obtain credit. Your decision to buy or not buy credit life insurance and credit disability insurance will not be a factor in the credit approval process. They will not be provided unless you sign and agree to pay the extra cost. If you choose this insurance, the cost is shown in Item 4A of the Itemization of Amount Financed. Credit life insurance pays the unpaid part of the amount financed if you die. This insurance pays only the amount you would owe if you paid all your payments on time. Credit disability insurance pays the scheduled payments due under this contract while you are disabled. This insurance does not cover any increase in your payment or in the number of payments. The policies or certificates issued by the named insurance companies may further limit the coverage that credit life or credit disability insurance provides. See the policies or certificates for coverage limits and other terms and conditions. Coverage for credit life insurance and credit disability insurance ends on the original due date for the last payment unless a different term for the insurance is shown below.

Other Optional Insurance

☐ N/A N/A
Type of Insurance Term

Premium \$ N/A

Insurance Company Name N/A
N/A

Home Office Address N/A
N/A

☐ N/A N/A
Type of Insurance Term

Premium \$ N/A

Insurance Company Name N/A
N/A

Home Office Address N/A
N/A

Other optional insurance is not required to obtain credit. Your decision to buy or not buy other optional insurance will not be a factor in the credit approval process. It will not be provided unless you sign and agree to pay the extra cost.

I want the insurance checked above.

☒ N/A N/A

Buyer Signature Date

☒ N/A N/A

Co-Buyer Signature Date

NOTICE TO RETAIL BUYER

Do not sign this contract in blank. You are entitled to a copy of the contract at the time you sign. Keep it to protect your legal rights.

You agree to the terms of this contract. You confirm that before you signed this contract, we gave it to you, and you were free to take it and review it. You confirm that you received a completely filled-in copy when you signed it.

Buyer Signs ☒ Katie Davis Date 09/11/2022 Co-Buyer Signs ☒ N/A Date N/A

Buyer Printed Name KATIE P DAVIS Co-Buyer Printed Name N/A

If the "business" use box is checked in "Primary Use for Which Purchased": Print Name N/A Title N/A

Co-Buyers and Other Owners — A co-buyer is a person who is responsible for paying the entire debt. An other owner is a person whose name is on the title to the vehicle but does not have to pay the debt. The other owner agrees to the security interest in the vehicle given to us in this contract.

Other owner signs here ☒ N/A Address N/A
Seller signs BARLOW BUICK GMC Date 09/11/2022 By ☒ [Signature] Title MANAGER

Seller assigns its interest in this contract to ALLY CAPITAL (Assignee) under the terms of Seller's agreement(s) with Assignee.

☐ Assigned with recourse ☒ Assigned without recourse ☐ Assigned with limited recourse

Seller BARLOW BUICK GMC
By ☒ [Signature] Title MANAGER